

1
2
3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 * * *

7 JUSTIN D. IRISH-MILLER,

8 Plaintiff(s),

9 v.

10 LAS VEGAS METROPOLITAN POLICE
11 DEPARTMENT, et al.,

12 Defendant(s).

Case No. 2:14-CV-1654 JCM (NJK)

ORDER

13
14 Presently before the court is plaintiff Justin Irish-Miller's motion to remand. (ECF No.
15 62). Defendants Las Vegas Metropolitan Police Department, Ryan Fryman, C. Hartfield, D.
16 Denton, D. Viskoc, and R. Wright filed a response (ECF No. 63), to which plaintiff replied (ECF
17 No. 64).

18 **I. Facts**

19 The parties are familiar with the facts of the case, which this court articulated in its order
20 on defendants' motion for summary judgment. *See* (ECF No. 59). In relevant part, the order
21 granted summary judgment in favor of defendants on counts one, two, three, five, nine, ten, and
22 twelve of plaintiff's complaint, and denied summary judgment on counts four, six, seven, eight,
23 and eleven. *Id.* Therefore, the only outstanding claims are state law tort-based claims against
24 Nevada residents.

25 **II. Legal Standard**

26 Federal courts are courts of limited jurisdiction. *Owen Equip. & Erection Co. v. Kroger*,
27 437 U.S. 365, 374 (1978). Pursuant to 28 U.S.C. § 1441(a), "any civil action brought in a State
28 court of which the district courts of the United States have original jurisdiction, may be removed

1 by the defendant or the defendants, to the district court of the United States for the district and
2 division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

3 When considering whether to exercise supplemental jurisdiction over state law claims,
4 courts consider the conditions enumerated in 28 U.S.C. § 1367(c). “While discretion to decline to
5 exercise supplemental jurisdiction over state law claims is triggered by the presence of one of the
6 conditions in § 1367(c), it is informed by the *Gibbs* values “of economy, convenience, fairness,
7 and comity.” *Acri v. Varian Assocs., Inc.*, 114 F.3d 999, 1001 (9th Cir 1997). “[I]n the usual case
8 in which all federal-law claims are eliminated before trial, the balance of factors . . . will point
9 toward declining to exercise jurisdiction over the remaining state-law claims.” *Id.* (citing
10 *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7 (1988)).

11 **III. Discussion**

12 Here, the court’s order granting in part defendants’ motion for summary judgment resolved
13 all outstanding federal causes of action in this case. *See* (ECF No. 59). As the claims remaining
14 are all state law causes of action upon which the court has not granted judgment in favor of either
15 party, the court will decline to continue to exercise jurisdiction over the outstanding claims.¹ *See*
16 *Acri*, 114 F.3d at 1001; *see also United Mine Workers v. Gibbs*, 383 U.S. 715, 726 (1966) (holding
17 that state law claims should normally be dismissed if federal claims are dismissed prior to trial).

18 The *Gibbs* factors favor remand in this case. Plaintiff originally filed its complaint in state
19 court. The parties are all Nevada residents. “The amount in controversy likely does not exceed
20 \$75,000.” (ECF No. 64). The outstanding claims are state-law causes of action against a local
21 police department. Further, the causes of action over which this court retained original jurisdiction
22 were dismissed prior to trial. These factors suggest remand of this case is appropriate.

23 **IV. Conclusion**

24 Accordingly,

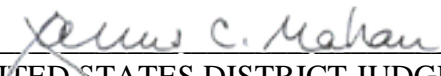
25 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff’s motion to
26 remand (ECF No. 62) be, and the same hereby is, GRANTED.

27
28 ¹ As the Ninth Circuit held in *Acri* and in *Albingia Versicherungs A.G. v. Schenker Intern. Inc.*, 344 F.3d 931 (2003), this is a discretionary choice, and remand in this case is not required (as plaintiff suggests).

1 IT IS FURTHER ORDERED that this case be, and the same hereby is, REMANDED to
2 the Eighth Judicial District Court for Clark County, Nevada.

3 The clerk shall close the case.

4 DATED March 26, 2018.

5
6 
7 UNITED STATES DISTRICT JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28